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7 Filed 14 April 2008
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10 Paper 27
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UNIT STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DAVID VINCENT ZYZAK,
ROBERT ALAN SANDERS, MARKO STOJANOVIC,
DAVID CAMMIADE, PETER YAU TAK LIN,
MARIA DOLORES MARTINIZE-SERNA VILLAGRAN,
JOHN KEENEY HOWIE, and
RICHARD GERARD SCHAFERMEYER

Junior Party
(Application 10/606,137),

v.

VINCENT ALLEN ELDER,
JOHN GREGORY FULCHER, and
HENRY KIN-HANG LEUNG

Senior Party
(Patent 7,037,540).

Patent Interference No. 105,579
(Technology Center 1700)

Before Schafer; Lane, and Moore, Administrative Patent Judges.

Lane, Administrative Patent Judge.

Judgment– Arbitration – Bd.R. 126(f)

The parties have filed an arbitrator's decision. (Paper 25).¹ In that decision, the arbitrator concluded that junior party Zyzak "was both first to conceive and first to reduce to practice the subject matter of the count [i.e., count 1]" and that "priority of invention lies with" Zyzak. (Paper 25 at 9).

¹ The parties were authorized to undertake arbitration under Bd. R. 126 (Paper 23) and the parties filed an agreement to arbitrate. (Paper 24).

1 The parties agree that judgment should be entered against senior party
2 Elder. (Paper 26 at 2).

3 It is

4 ORDERED that judgment on priority as to Count 1 (Paper 1 at 4),
5 the sole count of the interference, is entered against senior party Elder;

6 FURTHER ORDERED that claims 1-13 of Elder patent 7,037,540
7 be CANCELLED, 35 U.S.C. § 135(a);

8 FURTHER ORDERED that the parties are directed to 35 U.S.C.
9 § 135(c) and Bd. R. 205 regarding the filing of settlement agreements; and
10 FURTHER ORDERED that a copy of this judgment and the
11 arbitration award shall be entered into the administrative record of Elder patent
12 7,037,540 and Zyzak application 10/606,137.

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14 /Richard E. Schafer/)
15 RICHARD E. SCHAFER)
16 Administrative Patent Judge)
17)
18)
19 /Sally Gardner Lane/)
20 SALLY GARDNER LANE) BOARD OF PATENT
21 Administrative Patent Judge) APPEALS AND
22) INTERFERENCES
23)
24 /James T. Moore/)
25 JAMES T. MOORE)
26 Administrative Patent Judge)

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